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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,868	03/19/2004	Thomas W. Urbanek	LAMA122548	7649
26389	7590	04/03/2006	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			TUCKER, PHILIP C	
			ART UNIT	PAPER NUMBER
			1712	

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/804,868

Applicant(s)

URBANEK, THOMAS W.

Examiner

Philip C. Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10,11 and 23-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10,11,23-28,30-37,39 and 41 is/are rejected.
- 7) ☒ Claim(s) 29,38 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/3/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kadner (6197073).

Kadner teaches a method of forming aluminum oxide ceramic beads, formed from a sol-gel, wherein temperatures within the scope of claims 27 and 28 are used (see column 5, lines 12-16). Before calcinations or activation, such beads would be unsintered, and within the scope of claims 27 and 28. Applicant's intended use as a proppant does not distinguish (In re Pearson 181 USPQ 641).

2. Claims 27 and 28 are rejected under 35 U.S.C. 102(a or e) as being anticipated by Collins (6599493).

Collins teaches the manufacture of spherules of iron oxide ceramic, wherein the ceramic may also contain particles of other components, such as phosphates (see abstract and column 5, lines 21-31). The formation of the spherules may be from ambient up to 100 degrees C, and they would thus be unsintered. Applicant's intended use as a proppant does not distinguish (In re Pearson 181 USPQ 641).

3. Claims 25-28, 30-37 and 41 rejected under 35 U.S.C. 102(b) as being anticipated by Munzenberger (2002/0068775).

Munzenberger teaches particles of a geopolymer having a size of 1 mm to 25 mm, which can be combined with other fillers (see paragraphs 0013-0015). As noted by applicant, geopolymers are not sintered, and thus satisfy the requirements of claims 27, 28, 31 and 32. The geopolymer in the form of particles having a size of 1 mm to 25 mm would satisfy the method of claim 33, since such would have to be shaped into such form. Applicant's intended use as a proppant does not distinguish (In re Pearson 181 USPQ 641).

4. Claims 25-28, 30-37, 39 and 41 rejected under 35 U.S.C. 102(b) as being anticipated by Kaltenborn (2002/0004547).

Kaltenborn teaches particles of a geopolymer having a size of up to 500 micrometers, which can be surface coated by silanizing (see paragraphs 0032 - 0034). As noted by applicant, geopolymers are not sintered, and thus satisfy the requirements of claims 27, 28, 31 and 32. The geopolymer in the form of particles having would satisfy the method of claim 33, since such would have to be shaped into such form. Applicant's intended use as a proppant does not distinguish (In re Pearson 181 USPQ 641).

5. Claims 10, 11, 23-28, 30-37 and 41 are rejected under 35 U.S.C. 102(e) as being anticipated by Comrie (2004/0255823).

Comrie teaches a geopolymer, which may be in the form of a powder, and is made from a mixture of aluminum silicate, silicic acid and a sodium or potassium salt (see paragraph 0015 and Example 1). The potassium or sodium salt in the presence of silicic acid would form potassium silicate and sodium silicate, respectively. As noted by applicant, geopolymers are not sintered, and thus satisfy the requirements of claims 27, 28, 31 and 32. The geopolymer in the form of particles having would satisfy the method of claim 33, since such would have to be shaped into such form. Applicant's intended use as a proppant does not distinguish (In re Pearson 181 USPQ 641).

6. Claims 29, 38 and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicants arguments have been considered but are not deemed fully persuasive. With respect to the specified compound being a blend of an aluminosilicate an aqueous solutions of alkali metal silicates, or geopolymers, such is deemed persuasive with respect to Bourne, Collins and Kadner. With respect to Bourne, sintering is used to form the proppant, and is thus distinguished. However, as noted above , both Collins and Kadner teach the formation of the spherules at temperatures


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below the sintering level, and thus claims 27 and 28 are not distinguished. New rejections are also presented in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C. Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Philip C Tucker
Primary Examiner
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PCT-3958